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CLERK US DISTRICT COURT DISTRICT OF NEVADA	
BY: <u>W. C. [Signature]</u>	DEPUTY

James Henry Green
Name

Ely St. Prison Po Bx 1989
Address
Ely, NV 89301

1020696
Prison Number

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Green, James Plaintiff,

vs.

Romeo Aranas

Rene Baker, Warden

James Cox, Dir NDOC

J Gardner, Dir of Nursing

Dr. Koehn Defendant(s).

3:14-cv-00245

CASE NO. _____
(To be supplied by the Clerk)

CIVIL RIGHTS COMPLAINT
PURSUANT TO
42 U.S.C. § 1983

Jury Trial Demand

A. JURISDICTION

- 1) This complaint alleges that the civil rights of Plaintiff, Green, James
(print Plaintiff's name)

who presently resides at ESP Po Bx 1989 Ely, NV, were
(mailing address or place of confinement)

violated by the actions of the below named individuals which were directed against

Plaintiff at Ely State Prison (ESP) Ely, NV on the following dates
(institution/city where violation occurred)

1st amended, XIVth amended, and VIIIth amended
(Count I) (Count II) (Count III)

Make a copy of this page to provide the below
information if you are naming more than five (5) defendants

- 2) Defendant Romeo ARANAS resides at Po Bx 7011 Carson City, NV
(full name of first defendant) (address of first defendant) 89701
and is employed as Med. Dir. NDOC. This defendant is sued in his/her
(defendant's position and title, if any)

☐ individual ☒ official capacity. (Check one or both). Explain how this defendant was
acting under color of law: Created a policy or custom under which
Unconst. practices occurred

- 3) Defendant Rene BAKER resides at 4569 N. State Route 490
(full name of first defendant) (address of first defendant) Po Bx 1989 Ely NV 89301
and is employed as WARDEN Ely State Prison. This defendant is sued in his/her
(defendant's position and title, if any)

☒ individual ☒ official capacity. (Check one or both). Explain how this defendant was
acting under color of law: Policy Maker at ESP & Allowed the
continuance of policy or custom

- 4) Defendant JAMES COK resides at Po Bx 7011 Carson City, NV
(full name of first defendant) (address of first defendant) 89701
and is employed as Dir. of NDOC. This defendant is sued in his/her
(defendant's position and title, if any)

☐ individual ☒ official capacity. (Check one or both). Explain how this defendant was
acting under color of law: Knowledge of Intent: Deprivation of Const. Rt.
Adequate Med. & Fail to Act
CARE

- 5) Defendant J Gardner resides at 4569 N. State Rte 490
(full name of first defendant) (address of first defendant) Po Bx 1989 Ely, NV 89301
and is employed as Dir of Nursing (ESP). This defendant is sued in his/her
(defendant's position and title, if any)

☒ individual ☐ official capacity. (Check one or both). Explain how this defendant was
acting under color of law: Knowledge of Intent: Deprivation of Const. Rt. /
Adequate Med. Care & Fail to Act

- 6) Defendant Dr Koehn ^{ESP} ^{WORK} resides at 4569 N. State Rte 440 Po Bx 1989 Ely, NV 89301
 (full name of first defendant) (address of first defendant)
 and is employed as Dr. Ely State Prison This defendant is sued in his/her
 (defendant's position and title, if any)

☒ individual ☒ official capacity. (Check one or both). Explain how this defendant was acting under color of law: He knowingly & willingly ~~Entered~~ (W) Previous Prescribe Care For I/m; In furtherance of Conspiracy & Retaliation For Constitutionally Protected Conduct.

- 7) Jurisdiction is invoked pursuant to 28 U.S.C. § 1343(a)(3) and 42 U.S.C. § 1983. If you wish to assert jurisdiction under different or additional statutes, list them below.

B. NATURE OF THE CASE

- 1) Briefly state the background of your case.

* Deprivation of Fed. Protected Rts by persons acting under Color of Law!
As Retaliation For Protected Conduct, Dr. Koehn ESP Dr.
on 3/3/2014 "Discontinued Inmate Prescribed Care For a chronic
med. cl Problem - Ichtyosis" ... a pre existing med cl cond
that NDOC is mandated & cared for over the past consecutive
65 months w/o Due Process his action are Unconstitutionally
motivated in vio. Fed Statute 1997d (ii) VIIIth
& XIVth am. vros of Inmate (I/m) to medical treatment
previously prescribe by an Independent Qualified Dr. The
Failure to Insure Gears was given Ammonium Lactate 12%
Lactic Acid or to otherwise protect I/m From Irreversible
harm (iii) Inactions by Warden, Director of NDOC,
& med cl Dir. reflects the Deliberate Indiff. to Known Med cl =

Continue on Pg 9

C. CAUSE OF ACTION

COUNT I

The following civil right has been violated:

1ST amended. "Intentionally"
 via Freedom of speech - Rts. to petition for redress of Griev. S

• Retaliation for Writing Grievs / Filing Complaints @ Administrators
 All Protected Conduct!

Supporting Facts: [Include all facts you consider important. State the facts clearly, in your own words, and without citing legal authority or argument. Be sure you describe exactly what each specific defendant (by name) did to violate your rights].

After Green filed several complaints @ Rene Baker / the Warden / and Dir of Nursing J Gardner the med ch staff were contaminating the specialty drug Amloctin ~~DRUG~~ LACTIC ACID (Kochin Dr on 3/3/14) in retaliation. Discontinue the previous prescribe care for the pre existing chronic med ch problem Ichthyosis in furtherance of the conspiracy as punishment also see Grievs Filed 2006 29 64337 (2) Complaint was filed @ J. Gardner Dir of Nurs. Sept 22, 2013 (3) Griev. File Jan 2014 2006 29 73178, Informing the Admin on 2/19/14 I.D. First level Griev. mentioning the adulterated ingredient may contain bleach or lye, also (see Griev 2006 29 5381 Retaliation) Informal Filed Feb 2014. Look upon closely Dr Kochin destroyed the evidence by discontinuing the prescription, Green had threaten to summon State & Fedl health off. 18 Green prescriptn has been mandated & provided by NDOC some 65 months since his receipt into NDOC in 2008 Retaliatory acts were not reasonably related to any institutional or medicinal purpose

COUNT II

XIVth Amado
 The following civil right has been violated: Intentional deprivation of
Procedural & Substantive Due Process

Supporting Facts: [Include all facts you consider important. State the facts clearly, in your own words, and without citing legal authority or argument. Be sure you describe exactly what each specific defendant (by name) did to violate your rights].

UNDER Color
OF LAW!

on 3/3/14 Dr Koehn discontinued the chronic care for Ichthyosis w/o notice or exam. & w/o cause, but blatantly states a falsehood on the med^{ca} req. st (Kite) ~~to~~ submit 3/4/14 INQUIRING why I did not get my prescripⁿ, say was discontinued "Due to your behavior, your continued Refusals" (A) Warden Baker, Dir of Nursing Green, Med^{ca} Dir. Arrows, Dir Cox - they fail since to institute appropriate preventive procedure by affording Inmate (Jm) rt to be seen by an objective independent physician or given the previous prescripⁿ that's been prescribe for his chronic cond. Ichthyosis

(B) Dr Koehn's actions motivated by Retaliation, & if taken under different circumstances, such action unlawful! This is Dr Koehn and Act of depriving Jm of substant^{iv} Const^t rt to adequate care & procedural DP 9/23/13 & 3/3/14 he Arbitrarily & purposely discontinued - Deprived Jm Chronic Care; having neither the competence or training to recognize Ichthyosis w/o notice or exam, in furtherance of a conspiracy to vio Jm Civil rts (C) Dr Koehn has not provide Jm Green a subsequent opport to be meaningfully heard since discontinuing the prescripⁿ, he arrange 3 visits since 3/3/14 @ 3/7, 3/14, 4/11 & each visit he "refuse" to address the chronic cond. Ichthyosis, he & Nurse Cline both stated were not gonna talk about Ichthyosis, 3/14 & 4/11 Cline even made statement were not treating Ichthyosis as chronic care on 4/11/2014: evidence of an express agreement to vio Greens Civil Rts. Green prescribe care has been mandated over 5 yr by a independ. Qualify^d Physician, Diagnose a lifetime @ rare Genetic DISORDER Greens body does not produce LACTIC ACID!

XIVth amendment
Equal Protection Claim

① ON Mar 3, 2014 Dr Koehn prescribe
Deprivation Notification was Never given
& is a Discriminatory hear. & Notification process
SINCE

② 4 subsequent dates since depriving
Jm of of his prescribe Care for the pre-existing
Cond Dr Koehn Continue Course of Non-
treatment of Ichthyosis : Mar. 7, 14, April 11,
& May 2, 2014 that he know is painful And
Ineffect, v

(i) No viable explanation has been given as to
why Jm Prescriptn was discontinued 3/3/2014 &
the 4 subsequent visit No evidence has been
provided by Dr Koehn or Med^{cl} Staff ---

Arbitrarily 3. ON Mar 3, 2014 Dr Koehn oppressive ORDER,
he purposely Single Jm Green out For UnConst.^l
motives : Deliberate Mis Interpreting a Statute or Rule
against JAMES Green (4) Baker, Gardner

Dir. James Cox & Med.^{cl} Dir.
Aransas Know an Impartial Rule/Law is being
Unconstitutionally Applied w/o Due process as late
as Mar 30, 2014 and Failure to Intervene

COUNT III

VIIIth Amend.

The following civil right has been violated: Intentional Deprivation of Rt. to be free of Cruel & Unusual punishment

UNDER Color of law

Supporting Facts: [Include all facts you consider important. State the facts clearly, in your own words, and without citing legal authority or argument. Be sure you describe exactly what each specific defendant (by name) did to violate your rights].

ON 3/3/14 Dr Koehn w/o Due Process discontinued / interfered (w) treatment previously prescribe as punishment

Dr Koehn (IV)
ON 3 subsequent visit since discontinuing this prescriptn, Mar 7, Mar 14 & April 11, 2014 Dr "Refuse to meaningfully address" his excessive ORDER to discontinue this prescriptn for Chronic Med^{cl} cond Ichthyosis AND NEVER Exam Jm Re. said Cond. these visit seem to be crafted for sole purpose of delay & Denial of treatment. ~~He stated~~ When Questioned Re. Ichthyosis: he stated we're not discussing it & had c/o³ remove Jm from Exam Rm 3/14 AND 4/11-2014 (IV) ON 3/3/14 Dr Koehn deprived Jm Green of Rt to adequate med^{cl} care and Defendants BAKER, Gardner, Arveng & Incl^d Dir Cox know the actions taken in accord (w) a "DeFacto" policy punishes persons in a unlawful manner w/o corroborating information, w/o Rightful Authority And by excessive / unjustified Force --- the ORDER: InAction from Warden Baker, Nursing Dir Gardner, Med^{cl} Dir Arveng Reflect Deliberate Indiff. to Welfare of Jm Green viols Eighth Amend.

(IV) Nursing Dir. GARDNER

& Dr Koehn knew or should have known Staff were giving Jm a contaminated Prescriptn as early as 9/22/2013 causing pain, discomfort And threaten his mental health Refr to file grievance I.D. Court 1 & Fail to take steps to reasonably prevent by changing new prescriptn was handle & secured, a concerted effort discontinue the prescriptn, so State & Fed health investigator had no evidence to test! In Furtherance of Conspiracy

§1983-Form
eff. 1/97

See J Gardner response to Informal griev. 200629 75381
Filed as late as Feb 11, 2014 & Complaint lodged 9/22-2013

VIII Amend. Continued

~~VII~~ Dr Koehn 4 subsequent visits since interfering @ previous prescribe Care 3/3/14:
 Mar 7, 14, April 11 & May 2, 2014 were he insist on a course of Non treatment for Ichthyosis that he knew was painful & ineffective
 (a) on those visit he refuse to exam I/m RE Ichthyosis, his discussion Re. Diabetes & Lab results ONLY

~~VIII~~ ON 3/3/14 Dr Koehn - Dr Koehn unjustified use of Force by Dr's Order to discontinue I/m prescription w/o sufficient Cause furthering no penological or medicinal purpose

~~IX~~ ON 3/3/14 Dir Cox, Medical Dir Aronius Nursing Dir J Gardner, inclu Warden Baker knew the ^{Med} Staffing Shortage / ESF denies the I/m's access to diagnosis & treatment, but fail to act

X As of Mar 30, 2014 Cox, Aronius, Gardner & Warden BAKER knew & did nothing about Dr Koehn willful & Warden Conduct, his individual acts constituted policy or custom that's Unconst on I/s face

XI on or before 3/3/14 Cox, Aronius, Gardner & Warden BAKER knew the vagueness of Rules or Policy allow'd Dr Koehn too much discretion at ESF and fail to Act

D. PREVIOUS LAWSUITS AND ADMINISTRATIVE RELIEF

- 1) Have you filed other actions in state or federal courts involving the **same or similar facts** as involved in this action? ☐ Yes ☒ No. If your answer is "Yes", describe each lawsuit. (If more than one, describe the others on an additional page following the below outline).

- a) Defendants: _____
- b) Name of court and docket number: _____
- c) Disposition (for example, was the case dismissed, appealed or is it still pending?):

- d) Issues raised: _____

- e) Approximate date it was filed: _____
- f) Approximate date of disposition: _____

- 2) Have you filed an action in federal court that was **dismissed because it was determined to be frivolous, malicious, or failed to state a claim upon which relief could be granted**? ☐ Yes ☐ No. If your answer is "Yes", describe each lawsuit. (If you have had more than three actions dismissed based on the above reasons, describe the others on an additional page following the below outline).

Lawsuit #1 dismissed as frivolous, malicious, or failed to state a claim:

- a) Defendants: Greg Cox, et al., or Martin Dooley et al.
- b) Name of court and case number: USDC 309-CV-0206 ECR-VPC
- c) The case was dismissed because it was found to be (check one): ☐ frivolous
☐ malicious or ☐ failed to state a claim upon which relief could be granted.
- d) Issues raised: Retaliation
- e) Approximate date it was filed: 4/15/09
- f) Approximate date of disposition: 10/24/2011

Lawsuit #2 dismissed as frivolous, malicious, or failed to state a claim:

- a) Defendants: _____

- b) Name of court and case number: _____
- c) The case was dismissed because it was found to be (check one): ☐ frivolous
☐ malicious or ☐ failed to state a claim upon which relief could be granted.
- d) Issues raised: _____
- e) Approximate date it was filed: _____
- f) Approximate date of disposition: _____

Lawsuit #3 dismissed as frivolous, malicious, or failed to state a claim:

- a) Defendants: _____
- b) Name of court and case number: _____
- c) The case was dismissed because it was found to be (check one): ☐ frivolous
☐ malicious or ☐ failed to state a claim upon which relief could be granted.
- d) Issues raised: _____
- e) Approximate date it was filed: _____
- f) Approximate date of disposition: _____

- 3) Have you attempted to resolve the dispute stated in this action by seeking relief from the proper administrative officials, e.g., have you exhausted available administrative grievance procedures? ☒ Yes ☐ No. If your answer is "No", did you not attempt administrative relief because the dispute involved the validity of a: (1) ☐ disciplinary hearing; (2) ☐ state or federal court decision; (3) ☐ state or federal law or regulation; (4) ☐ parole board decision; or (5) ☐ other _____

If your answer is "Yes", provide the following information. Grievance Number _____

Date and institution where grievance was filed ELY STATE PRISON

Response to grievance: SEE FOLLOWING GRIEVES 2006 29 64387

#2 2006 29 73178 #3 2006 29 75381, INCL Recent Grievs

UN-Adm. *

E. REQUEST FOR RELIEF

I believe that I am entitled to the following relief:

Declaratory Judgment / Acts & Practices were Unconst^t. they vio^l Fed. Law: Compensatory damages in excess \$80,000 Intend^t infliction of physical injury, inclu psychological & emotional distress, humiliation as a result of Def^t's Action Punitive Damage, excess of \$18,000 Individual Capacity: Injunctive Relief, Med^l Care for pre existing Cond. is to substituted w/o interruptions, End to Actions that has Effects of v^lo Fund^t Rts, Att^y Att^y, award of Cost, Att^y's Fee

I understand that a false statement or answer to any question in this complaint will subject me to penalties of perjury. I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATES OF AMERICA THAT THE FOREGOING IS TRUE AND CORRECT. See 28 U.S.C. § 1746 and 18 U.S.C. § 1621.

(Name of person who prepared or helped prepare this complaint if not Plaintiff)

#1020696

(Signature of Plaintiff)

28th April 2014

(Date)

Nature of Case

(Additional space if needed; identify what is being continued)

Needs Constituting Cruel & Unusual Punishment (iv) Denying Green treatment For Filings Griev^s & Complaints: Staff were Cautioning his specialty Drug Addiction & depriving him of the minimal prescribed care, his rts were vio^l under the VIII amend & Fed Rts under the Constⁿ. (v) Arbitrary & purposeless action by Prison off^ls v^lo's Procedural & Substantive Due Process Rts, he was depriv^d of Rts by use of excessive Force & Retaliatory acts were not a reasonable exercise of med^l / Prison Authority (vi) The actions taken denied Green rts to Equal Protectⁿ of Laws by subjecting to discriminatory treatment, based on his indigence or poverty (vii) The injury asserted is the Retaliatory accusations Chilling effect on his 1st amend. Rts & advance no legitimate penological / med^l interest was not reasonably related (a) inclu non treatment For Injuries sustain From Use of Contaminated pre^lscriptⁿ... Gratuitous Cruelty!

ATTN DR Koehn as a medical representative of ESP
 MAR 05 2014
 AN VIIIth amend vld & (the XIVth amend. require a responsible Response

SIGNATURE: James GreenID# 1020696Institution: ESPDate submitted: 14th MAR - 14Unit/House: B48/1Medical: ☒Dental: ☐Mental Health: ☐Nursing: ☐*NOTICE OF CONSENT
Other: VIO

Reason for request: (Describe below)

W/o exam: Can you reasonably explain how my
 Chronic Care: prescriptn Ammonium Lactate could be discontinued
 I do have chronic Cond- that require the medication if you don't
 know, my Cond has not subsided so how do you expect me to
 treat my Cond. (A:DOC has been mandated to provide for those
 w/ pre-existing Cond-s such as I have over 6 yrs ... IN MY CASE)

DO NOT WRITE IN AREA BELOW

Response to request: A reasonable SURVIVOR may infer your conduct
is in vld of I'm's Cond- it's to adequate (CASE
Retaliation for protected conduct is Prohibited! (JH6)

Letter discontinued due to your behavior - your
 continued refusal.

☐Appointment Schedule for: / / Rescheduled for: / / ☐

No visit necessary

☐

No Show for Appointment

☐

Refused to be seen. DOC 2523-Release of Liability signed

PRESCRIPTIONS

☐

KOP

☐

NON-KOP

☐Order Date: / /

PLAN

☐Follow-up appointment / / ☐

Return if needed

☐

No follow-up required

Signature/Title of Provider

Date 3.5.14

NEVADA DEPARTMENT OF CORRECTIONS

NAME: Green, James

Last

First

MI

MEDICAL KITE and/or
 SERVICE REPORT

ID#

11 Elm's File

Don O'Garner

WARDEN R. BAKER

DOC 2502 (09/11)

Exhibit 2

ATTN:

DR. Mumford

URGENT

6-B-5A

TOP, UNSHADED PORTION TO BE FILLED OUT BY INMATE PATIENT

Signature <u>Jane H. Green</u> (also print name and DOC # at the bottom of this form)		DOC # <u>1020696</u>
Institution <u>HDSP</u>	Date Submitted <u>8/10/08</u>	Unit/House <u>4029</u>
Reason for request: <u>A Refill of 400 NF AMMONIUM LACTATE</u> <u>After request a refill 7-20-08 NEVER receiving it</u>		

Per AB 389, there may be a \$4.00 charge for any visit and a \$2.00 charge for any prescription issued.
DO NOT WRITE IN SHADED AREA BELOW

RESPONSE TO KITE:

- () Appointment scheduled for _____ Rescheduled for _____
 () No Visit necessary. See type of service or service provided, below.
 () Not entitled to requested care. Reason Refill sent in
 () No show for appointment.
 () Refused to be seen. DOC 2523 Release of Liability... filed. 8-23-08

TYPE OF SERVICE: () Medical () Dental () Mental Health () Nursing () Dietary () Other _____
 () Inmate requested, charge () Inmate requested, no charge
 () Emergency, Charge () Emergency, no charge
 () Prison required, no charge

Enter ICD-9 code(s) and/or diagnosis(es)

SERVICE(S) PROVIDED: Check all that apply

VISITS <input type="checkbox"/> New, minimal <input type="checkbox"/> New, moderate <input type="checkbox"/> New, high <input type="checkbox"/> Established, minimal <input type="checkbox"/> Established, moderate <input type="checkbox"/> Established, high <input type="checkbox"/> Consultation visit <input type="checkbox"/> Intake PE/classification <input type="checkbox"/> Recurrent PE/classification <input type="checkbox"/> Re-classification only <input type="checkbox"/> Nursing assessment	PROCEDURES/DIAGNOSTICS <input type="checkbox"/> Biopsy <input type="checkbox"/> BP <input type="checkbox"/> Ear Lavage <input type="checkbox"/> EKG <input type="checkbox"/> Excision <input type="checkbox"/> Eye Exam <input type="checkbox"/> I & D Immunization <input type="checkbox"/> Hepatitis B <input type="checkbox"/> Influenza <input type="checkbox"/> Tetanus <input type="checkbox"/> Other _____ <input type="checkbox"/> Inhalation Treatment <input type="checkbox"/> PPD <input type="checkbox"/> Spirometry <input type="checkbox"/> Suturing <input type="checkbox"/> Suture removal <input type="checkbox"/> Treadmill	PROCEDURES/DIAGNOSTICS, cont'd <input type="checkbox"/> Whirlpool <input type="checkbox"/> X-ray <input type="checkbox"/> Other _____ CHART REVIEW ONLY <input type="checkbox"/> By medical personnel <input type="checkbox"/> By inmate patient LABORATORY <input type="checkbox"/> Venipuncture <input type="checkbox"/> Specimen collection ITEMS ISSUED <input type="checkbox"/> Prosthetic <input type="checkbox"/> Eye glasses <input checked="" type="checkbox"/> Rx REFILL ONLY	SPECIALTY CLINICS <input type="checkbox"/> Cardiology <input type="checkbox"/> Neurology <input type="checkbox"/> Infectious disease <input type="checkbox"/> Endocrine <input type="checkbox"/> Internal Medicine <input type="checkbox"/> Pulmonary <input type="checkbox"/> Mental Health <input type="checkbox"/> Other _____ EMERGENCY SERVICES <input type="checkbox"/> Mandown <input type="checkbox"/> Non-mandown <input type="checkbox"/> Suicide attempt <input type="checkbox"/> Self-mutilation <input type="checkbox"/> Altercation <input type="checkbox"/> Accident <input type="checkbox"/> Recreational injury
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CONTRACT PROVIDERS

- () Physician, gen'l practice
 () Neurology
 () Ophthalmology
 () Orthopedic
 () Physical therapy
 () Other

PRESCRIPTIONS: KOP Medications: Total # _____ # to charge _____ # started by nursing _____
 Non-KOP Medications: Total # _____ # to charge _____ # started by nursing _____

PLAN: () Follow-up appointment ordered () Return if needed () Follow-up not required

Name / Title OR Position # _____	Date _____	Time _____	Name / Title OR Position # _____	Date _____	Time _____
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Distribution: ORIGINAL to medical record, COPY to date entry, then to inmate patient if necessary

NEVADA DEPARTMENT OF CORRECTIONS
**MEDICAL KITE and / or
 SERVICE REPORT**

NAME _____

DOC # _____ DOC 2500 (REV. 7/01)

Exhibit 1